IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT APPEAL NO : 2131 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 12/08/2004 in WP NO : 19366 OF 1994 on the file of the High Court.)

Between:

1 Velakaturi Gurappa Naidu, S/o. Rangaiah,
R/o. Mallelacheruvupalli Village, Chandragiri Tq., Chittoor District.
2 B. Yerrappa, S/o. Peddamallaiah,
R/o. Mallelacheruvupalli Village, Chandragiri Tq., Chittoor District.
3 K. Rahunathareddy,, S/o. Chinnabbareddy,
R/o. Mallelacheruvupalli Village, Chandragiri Tq., Chittoor District.
4 Tirumala Naidu, S/o. Mekala Naidu,
r/o. Vottuvanka (V) Chandragiri Tq., Chittoor District.
5 N.D. Ramachandraiah, S/o. Tirumalaiah,
R/o. Mallelacheruvu Village, Chandragiri Tq., Chittoor District.
6 L. Nagaiah, S/o Papaiah,
r/o. Kothur Village, Chandragiri Tq. Chittoor District.
7 Venkataswamy, S/o. Krishnaiah,
r/o. Harizanwada, Bandarlapalli Village, Chandragiri Tq. Chittoor District.

..... APPELLANTS

AND

1 The Sub Collector, Chandragiri at Tirupathi, Chittoor District.
2 The Mandal Revenue Officer, Pakala Mandal at Pakala, Chittoor District.
3 Addanki Guravaiahnaidu (died)
4 K. Sankar Reddy (died)

(RR 3 & 4 since died not necessary in this appeal)

.....RESPONDENTS

Counsel for the Appellants : MR. MEHARCHAND NOORI FOR MR.V.LOKESHWAR BABU

Counsel for the Respondents 1 and 2 No.: GP FOR ASSIGNMENT.

The Court made the following :

ORAL JUDGMENT:

(per Hon'ble The Chief Justice)

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1. Challenge is to the order passed by the learned single Judge dismissing the writ petition, which was filed in the year 1994. There was an interim order operating in favour of the appellants. There was no counter affidavit filed by the respondents. Submission of the petitioners – appellants has been that the Collector, Chittoor, would not have passed the order, which was impugned in the writ petition, thereby deleting the survey numbers mentioned in the order from Prohibition Order Book for being allotted to Scheduled Caste poor families.

2. Learned counsel for the appellants submits that in case such a land, which admittedly was reserved for grazing purpose under earlier orders, had to be deleted, certain procedure ought to be followed. Neither that procedure was followed nor there was any such ground made out for deleting the land from Prohibition Order Book. He has also placed reliance upon Clause 4(ii) of Board Standing Orders stating that wealthy lands cannot be given in assignment. Learned counsel for the respondents states that permission be granted to file counter-affidavit to controvert the case set up by the petitioners – appellants.

3 . Writ petition has been kept pending for almost ten years. No counter-affidavit has been filed. Now the Government has woke up and is seeking liberty to file counter-affidavit. Since no third parties rights are involved, we would permit the respondents to file affidavit in reply. Consequently appeal is allowed. Impugned order is set aside. Liberty is allowed to the respondents to file counter-affidavit within a period of four weeks. Counter be filed on the record of the writ petition. Learned single Judge will take up the writ petition for consideration afresh in accordance with law. In the meanwhile, interim order, which was passed in the writ petition, shall continue to remain in operation. No costs.

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DEVINDER GUPTA. C.J.,

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M. NARAYANA REDDY. J.,

Dated: 30.12.2004.

VRK.

Note:

Furnish cc in two days.

(BO)

To

1 The Sub Collector, Chandragiri at Tirupathi, Chittoor District.
2 The Mandal Revenue Officer, Pakala Mandal at Pakala, Chittoor District.
3. Two CCs to G.P. for Assignment, High Court Buildings, Hyderabad (OUT).

4. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE M. NARAYANA REDDY.

W.A.NO. 2131 OF 2004.

(Judgment of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 30.12.2004.